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09/987,178	11/13/2001	Yuichi Kawamoto	111092	6527

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EXAMINER

CULBRETH, ERIC D

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 10/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/987,178

Applicant(s)

KAWAMOTO ET AL.

Examiner

Eric D Culbreth

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,4 and 6-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2&4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Drawings*

1. Figure 17-19 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Note page 1, line 26 and page 2, line 9.

2. The drawings are objected to because of the following informalities. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

a. On page 1, line 36 reference numeral "30" should be "302" apparently (there is no numeral 30 on the drawings).

b. On page 12, line 16 "30 and 30" should apparently be "30 and 32".

c. Contrary to page 14, in Figure 6 parts 50 and 51 do not engage parts 55 and 56.

d. Reference numeral 62 (page 14, line 22) is not on the drawings (apparently, reference numeral 6a should be 62; 6a is not in the specification).

e. Reference numeral 112 (page 20, line 35) is not on the drawings; apparently, 112 on page 20 should be 118.

f. Similarly, on page 21, line 3 reference numeral 112 should be 119.

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g. Throughout the drawings, reference numerals that have lead lines should not be underlined also, as underlining indicates the numeral rests on the part (note, for instance, reference numeral 103 in Figure 12 and reference numeral 113 in Figure 14).

h. Contrary to page 12, line 19, reference numeral 126 does not refer to a pulley in Figure 13.

i. Contrary to page 23, line 36, V-V is not on the drawings.

j. Contrary to page 23, line 36, reference numeral 162 is not a shaft in Figure 14 (the lead line is incorrect).

k. Reference numeral 199 (page 27, line 10 and throughout the remainder of the specification) appears twice in Figure 16 and refers to two different parts of the invention, which is improper.

l. Reference numeral 200 (page 27, line 13) appears twice in the Figures and refers to two different parts of the invention.

### ***Specification***

3. The disclosure is objected to because of the following informalities:

a. On page 3, line 25, “detectors” should apparently be “detector”.

b. On page 3, line 26, “are” should apparently be “is”.

c. On page 9, line 33 “rod of single” is not clear.

d. On page 20, line 37 “the” should be “The”

e. On page 21, line 6, “show” should be “shown”.

Appropriate correction is required.

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4. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 7-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 7, line 4 and claim 11, line 6, it is not clear what part of the invention is the shifting sleeve.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any

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evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 1, 3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent 11-190425 in view of Japanese Patent 8-337131 (both of record, cited by applicant).

Japanese '425 a transmission for an all terrain (rough terrain in the title as functionally recited) vehicle with an engine E comprising a variable speed transmission connected to the engine (paragraph [0001] of English translation) and a gear transmission including a single shifting fork (paragraph [0003]) selecting at least one of high speed, low speed, neutral or reverse (it is, after all, variable speed transmission) and a shift lever S in Drawing 4(b) extending upward below the left handlebar H. A single change shaft R extends from a single connecting member connecting it to the lever S on the same side of the engine at 2 in Drawing 4(b). The shaft R extends upward from the rear. Japanese '131 discloses in Figure 1 a shift lever 30 above engine 11. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Japanese '425 to include the shift lever above the engine as taught by Japanese '131 in order to place the lever in a convenient location while keeping the vehicle relative compact (claim 1). Regarding claims 3 and 6, in the combination Japanese '131 teaches a gate plate 22a with a longitudinal slot 43b, the plate 22a in Figure 2 of Japanese '131 being on the same side of the engine as parts 35a, 27a for retaining the gear. Japanese '131 also teaches in

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Figure 4 a straight connecting rod 35 connecting the shift lever 30 and the linkage to the transmission, which in the combination would be Japanese '425's shaft R.

10. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese '425 in view of Japanese '131 as applied to claim 3 above, and further in view of Japanese Patent 2-203079 (of record, cited by applicant).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Japanese '425 and Japanese '131 to include an intermediate stopper between the high and low ratio positions in the guide slot in view of Japanese '079's Figure 3, which shows a low spot in slot 38 between the high and low positions where lever 21 would stop in order to better control when each gear is selected.

***Allowable Subject Matter***

11. Claims 2 and 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

12. Claims 7 and 11 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

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13. Claims 8-10 and 12-14 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

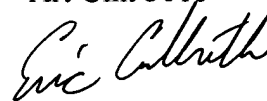
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric D Culbreth whose telephone number is 703/308-0360. The examiner can normally be reached on Monday-Thursday, 9:30-7:00 alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 703-308-2089. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Eric D Culbreth  
Primary Examiner  
Art Unit 3616



16/1/03

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